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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/529,128	06/30/2000	GRAHAM FRANCOIS DUIRS	08059-0001	2910
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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER 1300 I STREET NW WASHINGTON, DC 20005			EXAMINER	
			DEVORE, PETER T	
WASHINGTO	N, DC 20005		ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 04/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

1) Responsive to communication(s) filed on 13 July 2000. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-16 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5] Claim(s) 1-5 is/are allowed. 6) Claim(s) 1-5 is/are allowed. 6) Claim(s) 6-14 is/are objected to. 8] Claim(s) 6-14 is/are objected to. 8] Claim(s) 6-14 is/are objected to. 8] Claim(s) 6-14 is/are objected to by the Examiner. 10) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is/are: a) approved by disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. § 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachments) 1) Notice of References Cited (PTO-992)				l		
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Peter T deVore - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. The period for reply specified above is less than their (00) days, a reply within the statutory minimum of bitting (30) days will be considered timely. If the period for reply specified above is less than their (00) days, a reply within the statutory minimum of bitting (30) days will be considered timely. If the period for reply specified above is less than their (00) days, a reply within the statutory minimum of bitting (30) days will be considered timely. If the period for reply specified above is less than their period (30) days, and a reply be timely filled and the period for reply specified before its less than their and their period timely and the days and a reply days will be considered timely. If the period for reply specified above is less than their and their period to the specified and their period timely and their period timely. If the period for reply specified above is less than their and their period to the specified and their period to the specified and their period timely. If the period timely their their period timely and their period timely. Status Status Status Status Status Status Status Status Signate this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-16 is/are pending in the application. 4) Claim(s) 1-16 is/are pending in the application. 5) Claim(s) 1-15 15 16 is/are rejected. 7) Claim(s) 1-15 15 16 is/are rejected to . 3) Claim(s) 1-15 15 16 is/are rejected to . 4) The period drawing of the priod timely their period to be their period to by the Examiner. Application Papers 9) The drawing(s) filled on 1 is/are allowed. 10) The drawing(s) fi	Office Action Summan	09/529,128	DUIRS, GRAHAM FRANCOIS			
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Application/Control Number: 09/529,128

Art Unit: 3751

DETAILED ACTION

Claim Objections

Claims 6-14 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that they fails to point out what is included or excluded by the claim language. These claims are omnibus type claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al.

The Anderson reference discloses a substance delivery device comprising a support frame having arms 48 and 58 and substance delivery means 54 and 62 (see column 5, lines 36-48).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson.

The Anderson reference discloses a substance delivery device as discussed supra wherein "(t)he material might be configured to naturally release the agent...", but remains silent as to the specific means by which the material might naturally release the agent. However, the Examiner takes Official Notice that it is well known to release

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drugs into the body from implantable devices via osmosis, and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to

select the use of osmosis in the Anderson device (if not already), wherein so doing

would amount to mere selection of one functionally equivalent means for releasing a

drug into a body out of the various types of known means for releasing a drug into a

body within the same art and the selection of any of these means for releasing a drug

into a body would work equally well in the Anderson device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T deVore whose telephone number is (703) 306-5481. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

Pd Pd

April 23, 2002

GREGORY HUSON

UPERVISORY PATENT EXAMINE
TECHNOLOGY CENTER 3700